

Message Text

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ACTION SY-05

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FM AMEMBASSY BRIDGETOWN

TO SECSTATE WASHDC IMMEDIATE 295

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DEPT FOR SY AND L

CARACAS FOR RSO

EO 11652: NA

TAGS: ASEC

SUBJECT: ASSIGNMENT OF MSG

1. EMBASSY TODAY RECEIVED DIPLOMATIC NOTE DATED FEBRUARY 12 FROM GOB, APPROVING "IN PRINCIPLE" ASSIGNMENT OF MSG DETACHMENT TO EMBASSY "AS MEMBERS OF ADMINISTRATIVE AND TECHNICAL STAFF." TEXT OF RELEVANT PARAGRAPHS OF NOTE FOLLOW:

BEGIN QUOTE THE MINISTRY OF EXTERNAL AFFAIRS OF BARBADOS... HAS AGREED IN PRINCIPLE TO CLASSIFY THE MARINE GUARDS TO BE ASSIGNED TO THE EMBASSY AS MEMBERS OF THE ADMINISTRATIVE AND TECHNICAL STAFF, SUBJECT TO THEIR DUTIES BEING CLEARLY DELINEATED AND ON CONDITION THAT THEY ARE NOT ARMED ON DUTY. THE MINISTRY WOULD, HOWEVER, WISH TO EMPHASIZE THAT THE GOVERNMENT OF BARBADOS DOES NOT ACCEPT ANY INTERPRETATION OF ARTICLE 22 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS WHICH WOULD HAVE THE EFFECT OF CONFERRING ANY SPECIAL POWERS OF EJECTION AND SEARCH ON THE AGENTS OF THE SENDING STATE OVER AND ABOVE THOSE WHICH EXIST IN THE GENERAL LAW OF THE LAND, AND IT IS AGAINST THIS BACKGROUND THAT THE PROPOSED

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FUNCTIONS OF THE MARINE GUARDS WILL BE EXAMINED. IN THE

MINISTRY'S VIEW, THE ACTIVITIES OF THE GUARDS MUST BE KEPT WITHIN BOUNDS AS STRICTLY INTERNAL GUARDS FOR THE EMBASSY. IN THIS CONNECTION, IT WILL BE RECALLED THAT THE GOVERNMENT OF THE UNITED STATES HAS ON OCCASION INDICATED THAT IT CANNOT PERMIT THE EXERCISE WITHIN THE UNITED STATES OF THE POLICE POWER OF ANY FOREIGN GOVERNMENT. END QUOTE.

2. THIS NOTE REPRESENTS CULMINATION OF TWO YEARS OF EFFORT ON OUR PART AND APPARENT REVERSAL OF EARLIER GOB POSITION THAT, IF ADMITTED, MSG'S MUST COME IN AS "SERVICE STAFF." GOB'S NOTE OF JUNE 7, 1974 HAD REJECTED CLASSIFICATION AS ADMINISTRATIVE AND TECHNICAL STAFF ON GROUND THAT IT "WOULD ENABLE THEM TO CLAIM IMMUNITY FROM CRIMINAL LIABILITY IN CASES WHERE THEY EXCEED THEIR POWERS AND USE FORCE AGAINST CITIZENS OUTSIDE OF THE EMBASSY PREMISES." THAT NOTE ALSO STATED: "IF, HOWEVER, IT IS CONSIDERED NECESSARY THAT THE GUARDS EXERCISE POWERS OF EJECTION AND SEARCH IT WILL BE NECESSARY TO HAVE THESE POWERS EXPRESSLY CONFERRED BY STATUTE AS THERE IS NO EXISTING LEGAL AUTHORITY FOR THE EXERCISE OF SUCH POWERS."

3. IT APPEARS THAT OBJECTION TO EXERCISE BY MSG'S OF POWERS OF EJECTION AND SEARCH HAS NOW BEEN REVISED WHILE THEIR ASSIGNMENT HAS FURTHER BEEN CONDITIONED ON THEIR NOT BEING ARMED WHILE ON DUTY. CLEARLY, THESE CONDITIONS WILL AFFECT THE MSG'S UTILITY TO THE EMBASSY, BUT IT IS NOT CLEAR TO WHAT DEGREE, SINCE IT IS NOT CLEAR EXACTLY WHAT GOB CONTEMPLATES.

4. WITH REGARD OF QUESTION OF ARMING MSG'S, WE RECOGNIZE FACT THAT GOB POSITION REFLECTS BARBADIAN TRADITION BOTH SINCE AND PRIOR TO INDEPENDENCE, ACCORDING TO WHICH POLICE GO UNARMED. THIS, IN TURN, SPRINGS FROM CONCEPT THAT, AS BARBADIAN OFFICIAL ONCE REMARKED TO DCM, "OFFICIAL VIOLENCE PROMOTES PRIVATE VIOLENCE." UNLESS DEPARTMENT OBJECTS, HOWEVER, TO THIS CONDITION BEING MET (AND WE UNDERSTAND THAT MSG'S AT SEVERAL OTHER POSTS DO NOT CARRY ARMS), WE ARE PREPARED TO ACCEPT IT, PROVIDED GOB, FOR ITS PART, AGREES THAT, IN ANY PERIOD OF THREATENING OR ACTUAL DANGER, AMBASSADOR OR CHARGE SHOULD HAVE RIGHT TO ORDER MSG'S ARMED WHILE ON DUTY.

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5. GOB POSITION ON EJECTION AND SEARCH SEEMS TO US MORE DIFFICULT TO DEAL WITH, THOUGH LANGUAGE IS SUFFICIENTLY AMBIGUOUS (PERHAPS INTENTIONALLY SO) TO RAISE QUESTION AS TO HOW RESTRICTIVE THIS CONDITION IS MEANT TO BE. "GENERAL LAW OF THE LAND" PRESUMABLY MEANS LAW OF BARBADOS CONCERNING EJECTION AND SEARCH; WE ARE INFORMED BY POLICE COMMISSIONER THAT POLICE MAY EJECT A TROUBLEMAKER FROM A BAR, RESTAURANT OR OTHER PUBLIC PLACE AT THE REQUEST OF THE OWNER OF THAT PLACE

AND MAY ALSO STOP, DETAIN AND SEARCH ANY PERSON ON GROUND OF REASONABLE SUSPICION. WE NOTE, HOWEVER, GOB NOTE ALSO REFERS TO ARTICLE 22 OF VIENNA CONVENTION, WHICH, AS WE READ IT, CONFERS NO POWERS OF EJECTION OR SEARCH AT ALL ON AGENTS OF SENDING STATE.

6. WHILE RECOGNIZING THAT WE NEED TO SEEK FURTHER CLARIFICATION FROM GOB OF ITS INTENTIONS WITH REGARD TO CONDITIONS IT HAS IMPOSED, WE BELIEVE IT IS IMPORTANT THAT WE FIRST HAVE DEPARTMENT'S VIEWS ON THESE MATTERS. IN PARTICULAR, WE REQUEST THAT SY INFORM US OF PRACTICE AT OTHER POSTS WITH RESPECT TO ARMING OF MSG'S AND POWERS OF EJECTION AND SEARCH AND THAT L ADVISE US REGARDING POWERS (IF ANY) WHICH MSG'S MIGHT REASONABLY BE HELD TO HAVE IN CONSEQUENCE OF ARTICLE 22 (OR ANY OTHER ARTICLE) OF VIENNA CONVENTION. SINCE, AS NOTED ABOVE, THIS QUESTION HAS NOW BEEN UNDER DISCUSSION OFR TWO YEARS, WE WOULD APPRECIATE HAVING DEPARTMENT'S RESPONSE AS SOON AS POSSIBLE.
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